

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN
WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 25405 of 2007(Y)

OP.12/2004 of PRL.M.C.,IRINJALAKUDA

PETITIONER:

1. KOCHUTHRESSIA, AGED 64,
W/O.LATE POULOSE, KARAYAMPARAMBIL HOUSE,
VELLAMCHIRA DESOM, ALOOR VILLAGE, MUKUNDAPURAM
TALUK.
2. PRASANNA, D/O.LATE POULOSE,
KARAYAMPARAMBIL HOUSE, VELLAMCHIRA DESOM,
ALOOR VILLAGE, MUKUNDAPURAM TALUK.
3. LISSY, D/O.LATE POULOSE,
KARAYAMPARAMBIL HOUSE, VELLAMCHIRA DESOM,
ALOOR VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. JACON @ YAKOOB, AGED 55,
S/O.KARAYAMPARAMBIL ITTIERA,
VELLAMCHIRA DESOM, ALOOR VILLAGE,
MUKUNDAPURAM TALUK.
2. ROSILY, W/O.JOHNY, VATTAKUZHAY HOUSE,
V.R.PURAM DESOM, ALOOR VILLAGE,
MUKUNDAPURAM TALUK.
3. ALICE, W/O.POZHALIPARAMBIL XAVIER,
KALLAMKUNNU DESOM, NADAVARAMBU VILLAGE,
MUKUNDAPURAM TALUK.
4. K.I.JOSE, C/O.ST.JOSEPH STORES,
KADARI HOUSE, CHIMATIPUDA,
MAROLNAKA, MUMBAI-59.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.25405 OF 2007

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Dated this the 22nd day of August 2007

JUDGMENT

This writ petition is filed against the order in O.P.No.12 of 2004 of the Principal Munsiff's Court, Irinjalakkuda. The petition was filed under Section 83 of the Transfer of Property Act. It is averred that by virtue of a stipulation in the Will, the husband of the first petitioner, viz., Poulose was bound to pay Rs.200/- each to the wife of his brother Ittiera and others. The father, viz., Chakunni died on 10.7.1966. Though petitioners are prepared to pay the amount, respondents are not willing to receive it. They claim for valuation of the property under the present set up. The court below considered the matter and found that the petition is maintainable provided the others are consenting and are prepared to receive the amount. Since such a contingency does not arise in this case, it may not be proper to consider the case under Section 83 of the Transfer of Property Act.

Therefore I dispose of the writ petition with liberty to the petitioners

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-:2:-

to move the civil court for appropriate relief.

M.N.KRISHNAN, JUDGE

Cdp/-